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July 19, 2019

**By ECF**

The Honorable Denise Cote  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Picard v. Clark*, S.D.N.Y. No. 19 Civ. 3059 (DLC)

Dear Judge Cote:

This Office represents defendant Michael Magliano, Chief of Public Safety for the New York State Unified Court System. We write to request an extension of time to respond to the complaint from July 26 to August 16, 2019. There have been two prior extensions of defendants' time to respond to the complaint, as set forth in the Court's orders dated June 6, 12, and 14, 2019. (ECF Nos. 16, 18 & 20.) As described below, Plaintiff Michael Picard and defendant Darcel D. Clark, the Bronx County District Attorney, do not oppose this request.

In this action, Plaintiff asserts facial and as-applied challenges to New York Penal Law § 215.50(7), which prohibits certain protest activity targeting the administration of justice within 200 feet of a State courthouse. As noted in my letter to the Court dated June 10, 2019 (ECF No. 17), the complaint raises complex issues concerning Plaintiff's asserted First Amendment rights and the Court System's authority to protect the integrity of criminal proceedings.

This Office has substantially completed its initial factual investigation and its review of Court System documents relating to Plaintiff's alleged detention by court officers. We continue to research and analyze the case law concerning the First Amendment issues raised by Plaintiff, as well as the threshold question of his standing to sue. The requested extension will provide sufficient time to prepare motion papers addressing these issues, while also accommodating depositions and court-ordered filing deadlines in other federal actions.

In an email exchange today, Plaintiff's counsel, Brian Hauss, Esq. stated that "Plaintiff takes no position on Defendant Magliano's request for an extension on his motion to dismiss. If

the Court grants the extension, Plaintiff respectfully requests that the Court allow him to file his combined response to both defendants' motions on or before September 20."

District Attorney Clark's counsel, Susan Scharfstein, Esq., stated that she does not oppose the requested extension. Ms. Scharfstein requested that both defendants' motions to dismiss be kept on the same schedule, in light of Plaintiff's desire to file a combined opposition.

We appreciate the Court's continued attention to this matter.

Respectfully,

/s/

Michael A. Berg  
Assistant Attorney General